

Insurance and Labor Committee Members

2006 Term

Senator Ralph Hudgens, (47th) **Chairman**
P.O. Box 534
Comer, GA 30629

Senator David Shafer, (48th) **Vice-Chairman**
4231 Pleasant Hill Road
Suite B
Duluth, GA 30096

Senator Dan Moody, (56th) **Secretary**
3977 Merriweather Woods
Alpharetta, GA 30022

Senator Robert Brown, (26th)
P.O. Box 5742
Macon, GA 31208

Senator Jeff Chapman, (3rd)
P.O. Box 3119
Brunswick, GA 31521

Senator Tim Golden, (8th)
110 Beacon Hill
Valdosta, GA 31602

Senator Ed Harbison, (15th)
P.O. Box 1292
Columbus, GA 31902

Senator Chip Rogers, (21st)
P.O. Box 813
Woodstock, GA 30188

Senator Bill Stephens, (27th)
P.O. Box 4400
Canton, GA 30114

Senator Sam Zamarripa, (36th)
3353 Peachtree Road, NE
Suite 1040
Atlanta, GA 30326

Senator Don Balfour, (9th) **Ex-Officio**
2312 Waterscape Trail
Snellville, GA 30078

Senator Seth Harp, (29th) **Ex-Officio**
P.O. Box 363
Midland, GA 31820

Insurance & Labor Committee

Rules

2006 Term

1. These Committee Rules of Operation shall be constant with Senate Rule 2-1.5 (d) regarding the establishment of Rules of Operation
2. Quorum of the Committee shall be Six (6) members.
3. The Chairman shall determine which bills and resolutions are to be considered and the order in which said measures are considered.
4. The Chairman shall have the authority to refer bills and resolutions to subcommittees for study. Such subcommittees in turn shall have the authority to make recommendations on such measures to the full committee at such time as shall be designated by the Chairman.
5. The Committee shall convene, recess, and adjourn upon the order of the Chairman.
6. Any member or members of the Committee who disagree with the majority report of the Committee shall be privileged to file a minority report in writing, setting forth succinctly the reasons for their dissent.
7. These rules may be amended upon a motion duly made and subsequently approved by a quorum of the Committee in a meeting called by the Chairman.
8. A bill, resolution, or other matter will be considered only after presentation by its principal author or a legislator whom he designates to do so. In the event that more than one member of the General Assembly has signed a measure, the principal author shall be the one whose name appeared first in the list of authors.
9. Where these rules are silent on a specific issue, the Rules of the Senate, as adopted, shall govern. (Senate Rule 2.1.5 {d})

Insurance and Labor Committee

January 31, 2006

Room 307 CLOB

Members present:	Hudgens (47) Chairman	Chapman (3)
	Shafer (48) Vice-Chair	Harp (29) Ex-Officio

Senator Hudgens called the meeting to order at 9:35 AM and welcomed committee members, staff and visitors who included Senator George Hooks and Former Representative Buddy DeLoach. He called upon Senator Hooks to open the meeting with a prayer. Senator Hudgens explained he was pulling [HB 425](#) from the agenda as Legislative Counsel added language to the committee substitute that he did not intend so it was being redrafted and the committee would take it up at a later date.

Senator Hudgens recognized Kenneth Kreider of the Metter Mennonite Church and Wayne Rudolph representing the Pennsylvania Mennonite Church. Senator Hudgens explained that they are seeking to self-insure their privately owned automobiles. Kenneth Kreider introduced Joe Miller and Nolan Huntberger from Calhoun who are also members of the Mennonite community. He said there are other Mennonite communities who were not able to have representatives present today. He explained that the reason the Mennonites are seeking to be financially responsible for their own insurance is because their faith required every man to bear his own burden. They trust in the Lord before man. They believe insurance is a threat to their brotherhood. They wish to pass on their beliefs to the next generation. Their goals are love, consideration, and going the second mile. Commissioner Oxendine has been very understanding about this project. A local (GA) tag officer accepted the "Pennsylvania plan" as coverage for a period of time but the Georgia members of the Mennonite Church have since been required to furnish proof of coverage for all vehicles. Senator Hudgens asked what Pennsylvania plan was. Wayne Rudolph explained Pennsylvania has had about 4000 vehicles under this proposed type of insurance for the past 20 years. Pennsylvania has also granted them exemption from Worker's Compensation, as well. He pointed out that the Mennonites are currently exempt from Social Security. They wish to be removed from the "insurance pressure of society", the mandated insurance overages such as worker's compensation, automobile and health. They also feel that mortgages reflect the growing insurance pressures of society. They prefer first party payment, where you pay directly to the other party, rather than going through the insurance company. They have sought to reimburse Safeco for their payment of claims even though premiums have been paid. He pointed out that Mennonites are not allowed to carry life insurance. Former Representative Buddy DeLoach drafted legislation the previous Session for them. Senator Hudgens asked if an accident is their fault, are they willing to pay damages from their own pocket. Keith Kreider replied yes. Senator Harp asked what type of vehicles would be covered by this insurance. Keith Kreider answered that they were mostly passenger cars except for a brother with a wide-load pickup truck which has a million dollar policy on it. Otherwise, they do not have any commercial vehicles. Senator Harp said he was concerned about

that type of truck. Would the exemption include the member with the truck? Wayne Rudolph responded that the brother would be required to have a permit. Senator Harp stated that any resulting legislation needed to exempt commercial vehicles. Senator Hudgens asked if the requested exemption was granted, could a member choose to have auto insurance. Wayne Rudolph responded that this had not happened so he had no answer. He went on to say the brotherhood collects funds on a voluntary basis to pay claims. It has worked very well for them over the years. Senator Hudgens acknowledged the arrival of a special visitor, Senator Jack Hill. Senator Hudgens asked what was the largest settlement made by the brotherhood in Pennsylvania. Wayne Rudolph responded \$800,000 for needs collected over a period of time. He went on to say they take care of each other. They request help from other communities if the need is great. Kenneth Kreider added that in 2004, \$377,000 was paid by them for automobile accidents. They have also made a church- wide appeal for \$788,000 for needs in addition to the automobile claims. He said there was an incident where a brother was responsible for an accident. One injured party received help from insurance and the brother who was injured paid his own bills. The only claims paid are liability claims; not property or casualty for themselves. Senator Hudgens asked if someone slams into your car, do you accept money from their insurance company. Wayne Rudolph replied that if it is the other person's fault, yes. Senator Shafer said he believed there was no reason why we shouldn't try to accommodate their request. Allen Hayes, Department of Insurance, said they supported this request. He believed the General Assembly should try to accommodate them as it will require legislation. Current law does not allow for privately owned cars to be exempt. He pointed out that a very specific exemption must be crafted so churches do not 'pop up' everywhere and the millions of people on the roads are protected. Chris Taylor, Department of Insurance, stated he met previously with and had great respect for the Amish and the Mennonites. He pointed out that self insurance is not group insurance. He believed they must consider the level of exposure each individual has. He felt that audits must be done and there must be a security deposit, either cash or treasury bonds. Senator Harp said this would be a good idea. Chris Taylor said he is willing to support the exemption request but feels we must be cautious. Senator Harp left at 10:20 AM. Senator Hudgens asked if the title of the cars were transferred to the church could they qualify for an exemption. Allen Hayes responded yes. Wayne Rudolph said they would not do this. It is against their faith as it completely negates personal responsibility. Senator Shafer asked how difficult is it to get a 4029 exemption. Keith Kreider replied they must show bona fide membership in a group. Senator Shafer asked how difficult is it to form a new group. Keith Kreider replied the church has had members continuously since 1950. Senator Hudgens asked Wayne Rudolf if he was familiar with the Hutterite Communities in the west. Wayne Rudolph replied yes, they own everything as a commercial body including their vehicles. That is where they differ from the Mennonites. The Mennonites do not want communal ownership because it doesn't allow for personal responsibility. Senator Hudgens thanked everyone for coming.

There being no further business before the committee, the meeting adjourned at 10:28 AM.

/s/ Senator Ralph Hudgens, Chairman

/s/ Leah Tatum-Dick, Recording Secretary

Insurance and Labor Committee

February 8, 2006

Room 450 Capitol

Members present:	Hudgens (47) Chairman	Harbison (15)
	Shafer (48) Vice-Chairman	Rogers (21)
	Chapman (3)	Stephens (27)
	Golden (8)	Balfour (9) Ex-Officio

Senator Hudgens called the meeting to order at 4:46 PM and welcomed committee members, staff and visitors. He recognized Senator Pearson to open the meeting with a prayer.

HB 425 (Harbin 118th) Insurers; permit food and refreshments under certain circumstances; Representative Ben Harbin explained the purpose of this substitute is to clarify language to allow for agents to buy food for future and current clients. It was originally introduced as an amendment to a bill that passed last year. Senator Balfour arrived at 4:50 PM. Representative Ben Harbin said this is simply intended to allow agents to do business. Senator Shafer made a motion to **Do Pass by Committee Substitute**, seconded by Senator Rogers. The bill passed unanimously.

SB 248 (Thomas 2nd) Rehabilitation Services; delivery to deaf-blind individuals; procedures; Senator Regina Thomas explained the reason for this bill is there is no training for the deaf-blind in Georgia. They must go out of state for specialized training. She requested permission for two interested parties to be allowed to join her at the table. She introduced Susan Lascek with the Helen Keller National Center from Mississippi State & the CDC and McArthur Jarrett with the GA Statewide Coalition on Blindness from Savannah, GA. Senator Harbison asked if this bill deals only with the deaf-blind, not just deaf or not just blind but both. Senator Thomas replied yes, that is correct. Susan Lascek explained the Helen Keller Center provides services for both the hearing and the vision impaired. They serve 4 states, Georgia, Florida, Alabama and Mississippi. They offer vocational rehabilitation services but are in need of assistance to add additional programs. Currently there are 50,540 deaf-blind individuals age 55 and older with no programs available for them. It is estimated that by 2010 there will be 345,000 individuals who will be without unique services to help them. McArthur Jarrett said he is a blind hard of hearing consumer. He has had many challenges but he is challenged to better his life more than his current condition. He feels he is speaking for the deaf-blind community when he says they want to be productive citizens. He stated they are employable with the help of special training. Senator Hudgens asked Senator Thomas to clarify the bill for the committee. Senator Thomas replied this bill asks for four positions to cover the needs of the entire state. She said this includes services such as training, rehabilitation and Braille instruction. Annie Lewis, National Federation of the Blind, said let us hear and understand deaf and blind individuals deserve support from the General Assembly. It will be a noble thing to pass this bill. Susan Sherman, GA DOL, Director of

Rehabilitative Services and Taryn Trent, GA DOL, Legal Services Officer, spoke next. Taryn Trent said they specialize in helping people with disabilities get back to work. Susan Sherman said they have two people in the unit that are deaf-blind specialists so there is some focus on deaf-blind individuals but they mainly focus on people trying to get back into the workforce. Senator Thomas said they want the focus to extend to individuals seeking independent living services. Senator Hudgens asked who pays for those services. Taryn Trent said DOL pays for employment services but not independent living services such as Braille. Susan Sherman said people are funded with state or federal dollars but this funding does not include monies for independent living services. Taryn Trent said this bill falls under the Division of Vocational Rehabilitation which receives federal funding and independent living services are not eligible for that funding. Senator Harbison asked where do they go for those services. Taryn Trent responded they go to independent living centers. Senator Thomas added they get assistance from other organizations throughout the state such as the Helen Keller National Center, GA Council of the Blind and the American Foundation for the Blind. Senator Thomas said people are falling through the cracks. People do not want to sit and wait for assistance. Taryn Trent said we do try to help them get to work but there is limited funding and many people are not ready to go to work. They refer people to outside agencies who have other monies available to them. Senator Balfour left at 5:05 PM. Senator Hudgens asked if the Federal Dollar Mandate allows for transportation. Taryn Trent responded no. Senator Hudgens pointed out passing this bill requires it be funded by the state. Senator Shafer asked if the DOL could construe that independent living skills would be foundational to workforce skills. Senator Thomas said she was getting conflicting information from the DOL. Senator Harbison asked if they could receive tokens to get to work. Susan Sherman said that DOL doesn't pay for mobility or transportation. Senator Thomas said if the Department of Labor was meeting the people's needs then they would not be here; they no longer want people falling through the cracks or having to go to New York to get services. She also said there is no effective date on this legislation since it is pending funding by the General Assembly. Senator Chapman remarked he hoped this bill will be a first step in the right direction. Senator Chapman made a motion to **Do Pass**, seconded by Senator Harbison. The bill passed unanimously.

SB 384 (Hudgens 47th) Interstate Insurance Product Regulation Compact; Senator Hudgens asked Allen Hayes, Department of Insurance, to speak on this bill. Allen Hayes said this bill deals with interstate compacts. He said there exists 200 compacts today, with 24 of them in Georgia. This bill creates the Interstate Insurance Product Regulation Compact. Its purpose is to help states join together to establish an interstate compact to regulate insurance products. Georgia has 2.4% of the insurance market and we are 12th in the nation in insurance products. Senator Rogers asked if we could opt out. Allen Hayes replied no but there is always a way out. A law can be passed to do that very thing. Senator Shafer asked if the Compact collected and kept the money. He was concerned that fees violate appropriations funding. Allen Hayes replied that that was the first he had heard of that. That state law prohibits the keeping of monies; fees collected must go into the state treasury and be appropriated out by the General Assembly. Jeff Lanier,

Legislative Counsel explained that the state is not actually collecting the money; the compact is so it does not go through the appropriations process. Senator Shafer said it should be clear in the Compact that the books are open to public scrutiny. Senator Rogers made a motion to **Do Pass**, seconded by Senator Harbison. The bill passed unanimously.

SB 385 (Hudgens 47th) Authorized Investments of Insurers: Senator Hudgens explained that this bill allows an insurer to invest in Canadian cities with a population of over 25,000. Senator Stephens asked if that included investments like Canadian sewer bonds. Senator Hudgens responded yes. Senator Rogers made a motion to **Do Pass by Committee Substitute**, seconded by Senator Stephens. The motion passed unanimously.

There being no further business before the committee, the meeting adjourned at 5:57 PM.

/s/ Senator Hudgens, Chairman

Leah Tatum-Dick, Recording Secretary

Insurance and Labor Committee

February 14, 2006

Room 450 Capitol

Members present:	Hudgens (47) Chairman	Stephens (27)
	Shafer, (48) Vice Chairman	Zamarripa (36)
	Chapman (3)	Balfour (9) Ex-Officio
	Rogers (21)	Harp (29) Ex-Officio

Senator Hudgens called the meeting to order at 4:31 PM and welcomed committee members, staff and visitors. He recognized Senator Stephens to open the meeting with a prayer.

SB 486 (Balfour 9th) Employment Security Law; exempt direct sellers from definition of employment; Senator Balfour presented the bill, explaining it is to help small businesses and independent contractors such as Mary Kay, Amway and Shaklee. It parallels a federal law identifying who is an employee and who is an independent contractor. Senator Shafer arrived at 4:38 PM. Les Schneider, Mary Kay, said, in his opinion, independent contractors are in a Catch 22. The Department of Labor says when they knock on your door; your house becomes a place of business. He suggested if the IRS defines someone as an independent contractor then it must also define the seller as a contractor for employment proposes. He said line 21 requires a more complete definition of a ‘commissioned sales person with exemption.’ He also said that the Department of Labor could make clarifications so that lawyers are not needed. Senator Chapman arrived at 4:42 PM. Senator Harp asked if the bill corresponds to the IRS test. Les Schneider responded that it may not in certain cases. John Webb, Direct Selling Association, said that most of the independent contractors are typically moms. He believed the bill simply clears up the law regarding unemployment for independent contractors. He said this language has stood the test of time on both the federal and state level. He indicated his support of the bill as introduced. Anne Crews, Mary Kay, Inc spoke of her support of this bill. She said Mary Kay has a distribution warehouse in Suwanee. She said that women join Mary Kay because they are attracted to independence. She has worked there for 23 years. She is now the Vice President of Government Relations. So far, she said, no state has a problem with this language; that the bill was drawn very narrowly. She said that they would be the first to come back to the General Assembly if a problem develops. Bryan Harrison, Alticor, said they are the parent company of Amway and Quixar among others. He said they are direct sellers and do not pay into or draw from unemployment compensation. He said they support this bill. Senator Rogers made a motion to **Do Pass**, seconded by Senator Chapman. Senator Harp said he abstained from the vote because he holds part interest in a direct selling business. The bill passed unanimously.

SB 406 (Hudgens 47th) Life Settlements; Senator Hudgens presented this bill explaining that it closes loop holes in **SB 217**. Robert Highsmith, Holland & Knight, said that SB

217 passed unanimously in a previous session. He explained that life settlements are a fast growing market. The living owner of a life insurance policy sells to a third party. He said it is a good transaction for the seller and the buyer. He went on to say additional language is needed as we move into the regulatory phase including adding to a list of things which are considered to be fraudulent acts. He also pointed out some mistakes in grammar. He said unlicensed companies located in Georgia may set up trusts in other states which can lead to fraud on the part of the investor; he says there is a need to comply with the rules and regulations. Senator Hudgens said that they want a person to comply even if they are licensed somewhere else. Senator Shafer asked why we are exempting some accredited investors from licensed providers and sellers. Senator Hudgens responded that initially accredited investors have over one-half million dollars in assets. Later we will make sure to take this out of the definitions. Senator Shafer said if he understood correctly the main thrust of the bill is that out-of-state trusts are being set-up in order to evade regulations. But this bill will not stop out-of state trusts which obey the law. Senator Hudgens said this was correct. Senator Rogers asked regarding page 3 lines 35-36, who makes that determination. Robert Highsmith responded that the Insurance Commissioner does. Senator Rogers said he is concerned with granting the Insurance Commissioner the authority to tell people what to do. Robert Highsmith answered that we are only dealing with people who are unlicensed. He explained the language is relatively narrow. Senator Rogers asked who are we are protecting by allowing someone to get a license in GA who doesn't do business in Georgia. Robert Highsmith responded that in most insurance transactions, business conducted in a state is subject to the regulative authority of that state. If agencies or carriers are located here we want to know that they are licensed. Senator Hudgens added that Georgia does not want to become the 'Bahamas of the USA'; a haven for the physical location of a business doing business in other states. Senator Rogers asked if we are overstepping the bounds of state government. Senator Harp asked if this is part of the interstate compact or stands alone. Senator Hudgens responded that it stands alone but it is part of the National Association of Insurance Model. Senator Rogers asked if the NAI was encouraging all 50 states to pass the legislation. Senator Hudgens replied yes, we are weeding out the bad actors. Bryan Freeman, Life Insurance Settlement Association in GA, said he is the owner and founder of Habersham Funding. That it was the first company in GA to be a licensed life settlement provider. He said he has been involved for over a decade trying to get responsible legislation passed. He said he was conflicted because of the testimony so far. As the president of the Life Insurance Association, he must be concerned with the legislation though. He said the legislation is extraterritorial in nature. He said that last years provisions are better written than the NIAC Model. There is no uniformity in the provisions with the NIAC Model but there is also no national statute or mode. So far this is the law only in Florida and it has not been challenged in court. Georgia would be the second in the nation to enact this legislation. Senator Shafer said Florida was a haven for fraudulent activities until they enacted this legislation; that Florida is ahead of the curve. Senator Harp asked if [SB 406](#) was necessary. Bryan Freeman responded that in his opinion as a businessman yes, as president of the association, no. Allen Hayes, Department of Insurance, spoke of the department's support of the bill. He said they

were in favor of closing the loop hole. They believe this will not change the regulations from last year. Senator Hudgens asked for 20 plus people, how long would it take the department to clear them? Allan Hayes responded that it was difficult to assess at this time. Senator Hudgens asked if Life Settlement being done in Georgia without licenses. Allan Hayes answered he didn't know. Senator Shafer asked when the law takes effect. Allan Hayes answered as soon as the first company is licensed. Senator Shafer said he wanted to know if he understands correctly; all this bill does is mandate out-of-state trusts cannot be set-up. Allan Hayes answered that is true. Senator Hudgens said that page 4 line 5 says 'dealt in bad faith with sellers' is a pretty broad statement. Would the department have a problem if this statement is crossed out? Allan Hayes answered this is intended to be a 'catch all' to prevent fraudulent activities. Senator Harp said that if you want a broad statement then leave it in. If you do not want a broad statement, then take it out. The courts will look at this statement thus giving the judicial branch the power of interpretation. Senator Shafer said he has no problem with taking the phrase out but would like to add "accredited investor." Senator Shafer made a motion to amend the bill with additional changes. Robert Highsmith said that he believed that line 17 was necessary and should be left in. Brian Freeman said he believed there were potential issues with the changes, so they need to be clarified. Senator Hudgens said that line 17 needed the word 'or.' Senator Shafer agreed to add to his proposed changes, Senator Hudgens asked why the change in accredited investors. Senator Shafer responded that accredited investors who make only ½ million dollars or less a year are entitled to the same protection. Scott Supenko of the Life Insurance Trade Association spoke up and said they were not expecting amendments and would have to be against this bill if they are included. Bryan Casey who is on the board of the Life Insurance Settlement Association and Brian Freeman said that the suggested amendment is a significant change from the NEIC model so they were opposed to it. Senator Shafer asked if they were aware of the hundreds of millions of dollars in fraud each year. Senator Hudgens asked if someone makes over \$200,000 dollars a year or has a net-worth of over a million dollars, could someone come along and cheat him/her. Bryan Casey said that they needed to clarify the statement 'when a transaction occurs with a company without a license.' Senator Hudgens said that with all the work we have done on this bill someone with a 2 and 1/2 million dollar policy having a net-worth of over a million dollars, are they still not protected. Senator Shafer responded that just because someone makes \$200,000 dollars a year, it does not necessarily mean that he or she is sophisticated enough not to get "ripped-off." Senator made a motion to **Do Pass by Committee Substitute** with the suggested changes. Senator Zamarripa seconded. Senators Chapman and Harp voted no with Senators Shafer, Zamarripa, Rogers, Balfour and Stephens voting yes. The bill passed by substitute.

There being no further business before the committee, the meeting adjourned at 5:52 PM.
/s/ Senator Ralph Hudgens, Chairman

/s/ Leah Tatum-Dick, Recording Secretary

Insurance and Labor Committee

February 21, 2006

Room 450 Capitol

Members present: Hudgens (47) Chairman
Shafer (48) Vice-Chairman
Moody (56) Secretary
Brown (26)
Chapman (3)

Golden (8)
Rogers (21)
Stephens (27)
Harp (29) Ex-Officio

Senator Hudgens called the meeting to order at 11:05 AM and welcomed committee members, staff and visitors. He recognized Senator Rogers to open the meeting with a prayer.

SB 472 (Rogers 21st) Public Officers/Employees; provide for meritorious award program; definitions; establish/implementation; Senator Rogers explained this bill cleans up problems with the merit system of pay. This will separate meritorious pay from incentive bonus pay so that the incentive pay will not be used for retirement purposes. He said it was compliant with the labor rules and regulations. Senator Golden and Senator Brown arrived at 11:10 AM. Senator Hudgens said the GA world Congress Center has incentives and it helps to boost events and even surpasses its goals. He went on to say that this bill still includes incentives. Pat Kinard-Boutte with Georgia Merit System said they supported this bill as it just clarifies the law and gives more oversight to the director of the Merit System and OPB. Pat Kinard-Boutte said it also provides for specific criteria to be met before an award is given. Senator Shafer arrived at 11:15 AM. Senator Moody said this was a good bill. Senator Moody made a motion to **Do Pass**, seconded by Senator Chapman. The bill passed unanimously.

SB 531 (Rogers 21st) Motor Vehicle Liability Policies; uninsured motorist coverage; change certain provisions; Senator Rogers requested that this bill be delayed until the next meeting explaining he had received some amendments he needed to review. Senator Hudgens agreed and said he would put on the agenda for the next meeting.

SB 438 (Meyer von Bremen 12th) State Employees; health insurance plan; new third-party administrator; provide time requirements for credentialing health care providers; Senator Meyer von Bremen requested that this bill not move today since he is anticipating an amendment. Senator Hudgens agreed to put on the agenda at a later committee meeting.

SB 412 (Meyer von Bremen 12th) State Health Benefit Advisory Committee; create; membership; quarterly meetings; involved in policy-making activities; Senator Meyer von Bremen explained that the 2005 audit of State Benefit Plan shows 633,900 people covered under the plan with more anticipated for 2006. Many of their doctors are not signed-up as providers with UnitedHealth Care. He held up a folder and said it was

about 6 inches thick and full of letters supporting this bill. He said he had hundreds of letters from Cordele and Albany, as well as from all over the state because people must travel several hundred miles to see an in-network provider or pay out-of-network fees for medical services. He pointed out they were assured that the providers would be signed up by the time the plan went into effect. This did not happen. Senator Moody left at 11:28 AM. Senator Meyer von Bremen said this bill's purpose is to create an Advisory Committee composed of 15 members; 5 appointed by the Governor, 5 appointed by the Speaker of the House and 5 appointed by the President Pro Tempore of the Senate. He went on to say every 4 years, the State Health Plan would be reviewed, and revisions would be made. This would allow state employees and teachers to participate in the voting process. Senator Rogers asked if there had been any considerations of individuals other than state employees. Senator Meyer von Bremen responded he had not considered them, but he had their best interests in mind. Senator Hudgens asked, on page 1, line 16, it indicated both educators and state employees. Is an educator defined elsewhere as coming from the public school system? Could we not also have those educators from private schools? Does one have to be both an educator and a state employee? Senator Meyer von Bremen answered the committee would be made-up of educators and employees both. He suggested that Legislative Counsel could change the wording. Senator Shafer said teachers do not have to be state employees. Annette Snow, Georgia Merit System, Paul Chamberlain, Georgia Merit System and John Upchurch, Department of Community Health, State Benefit Plan, discussed the Advisory Committee's responsibilities. They explained it would review all areas of the State Health Benefit Plan, review the number of options offered, compare the State Health Benefit Plan with other plans and offer a complete analysis of things which may be confusing and expensive for employees. It would set up focus groups across the state and develop actuarial studies to create cost models. Senator Hudgens asked if the Governor is proposing this development. Annette Snow replied the Governor has requested a study committee and the development of a plan. Paul Chamberlain responded this plan was on the drawing boards before either of the bills were even drafted. He said his department was asked by GMS to come up with a plan. Senator Hudgens said [SB 412](#) creates an Advisory Committee. Has the Governor told you to do this? Annette Snow replied yes. Senator Brown asked what differences could exist. John Upchurch replied we have a number of studies and a task force. He continued saying we plan to utilize some recommendations, so we don't expect anything different to show up. He said he believed that the recommendations are the only things that may differ, but not substantially so. Margaret Price, Professional Association of Georgia Educators, explained they received many complaints and concerns from educators during the "switch-over" process to United Healthcare. She said her membership applauded Senator Meyer von Bremen's bill. Senator Brown left at 11:40 AM. Margaret Price said her association looks forward to the implementation of [SB 438](#). Jody Grogan, GAE said they saw an avalanche of complaints from their members. They support a process that increases transparency and information gathering. She said the critically ill are wondering about their networks and if they were still covered by insurance. She said she believed an advisory Committee is a step in the right direction. Senator Michael Meyer von Bremen said he appreciated

the efforts of the Governor's office to look at the problems with the State Health Care Plan. Senator Rogers asked when we are talking about educators and state employees, does this include retired individuals? Senator Meyer von Bremen answered no but he was not opposed to an amendment which would add retired individuals who are covered by the plan. He concluded by saying we need an evaluation of state health benefits to improve a system that affects a minimum of 633,000 people. Senator Rogers made a motion to amend the bill by striking 'and state employees' after the word 'educators' and adding the words 'or retired educators and state employees, or retired state employees,' seconded by Senator Harp. The amendment passed unanimously. Senator Golden made a motion to **Do Pass As Amended**, seconded by Senator Harp. The bill passed unanimously.

There being no further business before the committee, the meeting adjourned at 11:45 A.M.

/s/ Senator Moody, Secretary

/s/ Leah Tatum-Dick, Recording Secretary

Insurance and Labor Committee

February 23, 2006

Room 450 Capitol

Members present:	Hudgens (47) Chairman	Rogers (21)
	Shafer (48) Vice-Chairman	Balfour (9) Ex Officio
	Moody (56)	Harp (29) Ex-Officio
	Chapman (3)	

Senator Hudgens called the meeting to order at 3:35 PM and welcomed committee members, staff and visitors. He recognized Senator Harp to open the meeting with a prayer.

SB 531 (Rogers 21st) Motor Vehicle Liability Policies; uninsured motorist coverage; change certain provisions; Senator Rogers presented a substitute bill explaining that he worked closely with Robert Potter of State Farm Insurance and William Clark of the Georgia Trial Lawyers Association on this bill and believes it tightens necessary policy language. Current language requires the uninsured motorist insurance policy to pay the insured all sums which the insured is legally entitled to recover as damages from the owner or operator of an uninsured motor vehicle. Current law also does not place a cap on the amount of time a person has to look for a missing defendant. Robert Potter, State Farm Insurance, said this bill is the result of a court action, Gordon vs. Atlanta Casualty Insurance which extended the insurance company's exposure beyond the general policy language. He went on to say that the language restricts coverage to insurers in the household. This will help insurance companies to rate risks. William Clark, GA Trial Lawyers Association, said that plaintiffs have an ongoing obligation to find missing defendants in order to file lawsuits. Rather than continuing to spend time, effort and money indefinitely this bill sets a cutoff date of 6 months after publication. Senator Harp suggested changing that time limit to 12 months. Senator Hudgens asked if someone is driving a car with uninsured motorist coverage, and he knows who caused the accident to his car but didn't know where to find them...what do they do? William Clark answered they could hire a private investigator to find out where the defendant has run off to. If the defendant cannot be found they must go to court and publish in the county the defendant is to be served in. It would then be their duty to search until the court reaches a verdict. He believed there should be a time limit to allow the search to stop other than the court verdict. Senator Moody asked if, currently under uninsured coverage, insurance companies are required to notify. William Clark answered yes. Senator Moody said that suppose a young man is hit by a car and is now recovering. This is a 'hit and run' Three weeks later, someone suggests using uninsured motorist coverage but he is told by the insurance company it is too late to file. What is the appropriate length of time someone should have in which to notify the insurance company? William Clark said he didn't know, there could be more to that story. Senator Moody asked him to give a hypothetical example. William Clark replied that he could not speculate as it depends on the insurance company and their contract language. Senator Hudgens said he was

flabbergasted that auto insurance should cover this in the first place. Senator Moody said the reason you buy uninsured motorist coverage is to cover incidents such as “hit and runs.” Senator Harp made a motion to change 6 months to 12 months and to replace the word ‘attempt’ with ‘exercise due diligence’ seconded by Senator Hudgens. The changes passed unanimously. Senator Harp made a motion to **Do Pass By Committee Substitute**, seconded by Senator Shafer. The bill passed unanimously.

There being no further business before the committee, the meeting adjourned at 3:49 PM.

/s/ Senator Dan Moody, Secretary

/s/ Leah Tatum-Dick, Recording Secretary

Insurance and Labor Committee

March 6, 2006

Room 450 Capitol

Members present:	Hudgens (47)Chairman	Harbison (15)
	Shafer (48) Vice-Chairman	Rogers (21)
	Moody (56)	Stephens (27)
	Brown (26)	Balfour (9) Ex Officio
	Chapman (3)	Harp (29) Ex-Officio
	Golden (8)	

Senator Hudgens called the meeting to order at 3:38 PM and welcomed committee members, staff and visitors. He recognized Senator Rogers to open the meeting with a prayer.

SB 407 (Golden 8th) State Health Insurance Plan; provide Governor and Community Health to contract for a state-by-state survey/analysis; Senator Golden explained that the bill requires the Governor and the Department of Community Health, to let a contract for a state-by-state analysis of innovative state health care plans included costs, access and quality. This study is to be done in 2006 by a public policy group with final recommendations to be made to the legislature and the Governor by December 31, 2006. Senator Hudgens asked if Senate Research couldn't do the report. Senator Golden replied they already had enough to do. Senator Hudgens asked if a public policy group would charge to do the report. Senator Golden responded yes, but the cost would be minimal. Senator Harp arrived at 3:43 PM. Senator Stephens asked if this would include all 50 states. Senator Golden responded only the states having a state health program. Senator Hudgens asked if they could count on the discretion of the selected school of public policy. Senator Balfour arrived at 3:46 PM. Senator Golden replied yes. Senator Moody asked if he was aware of situations where this type of legislation had passed in other states. Senator Golden answered this type of legislation passes all the time. Senator Moody asked if we could possibly be hindering the development of the study. He said he believed we could accomplish the same objectives with Senate Research. Senator Golden responded that he believed this approach is better. Margaret Price, Professional Association of Georgia Educators, said her association supports this bill. She believed there were some interesting ideas regarding costs and cost cutting out there and possibly those ideas could work here. John Upchurch, DCA, State Health Benefit Plan, also supported the bill. He said there are a number of studies done over the last 18 months available for us to look at. He said GA Merit Systems is putting together a design team. Senator Harp asked what are the results of these studies, can they be made public. Senator Harp said there is a large degree of dissatisfaction from teachers and legislators' wives. Senator He went on to say we needed to get proper information out to the public. Senator Rogers made a motion to **Do Pass**, seconded by Senator Brown. The bill passed unanimously.

SB 438 (Meyer von Bremen 12th) State Employees; health insurance plan; new third-party administrator; provide time requirements for credentialing health care providers; Senator Meyer von Bremen passed out a stack of e-mails he received explaining they show the frustration felt towards United HealthCare. Senator Balfour arrived at 3:52 PM. Senator Hudgens asked if the board mentioned in the legislation is the Board of DCH. Senator Meyer von Bremen responded yes, those members are appointed by the Governor. Senator Shafer asked if the 30 days is to allow for a yes or no answer on approval. Meyer von Bremen said yes, that is correct. John Upchurch, DCH, said their counsel is concerned with the retroactivity of this bill and since this bill does not affect any balance billing it may not protect the member. Senator Shafer asked for a good reason why it would take more than 30 to 60 days to credential a provider. John Upchurch responded that primary source verification is done for credentialing. It can take a long time as you are at the mercy of the primary source. Senator Shafer asked if standards vary widely from insurance company to insurance company. John Upchurch responded that everyone follows the National Council on Quality Assurance requirements. Kirk McGhee, GA Association of Health Plans, said they have been working on the counterpart bill in the House. He hopes we all have learned a lesson, which is next time we need to allow more time to change over to a new insurance carrier. The primary source verification needing more than 30 to 60 days is a good example of the potential problems; since the state is not responsible for getting this done, the carrier is. Senator Stephens asked if it is true you cannot receive the in-network price until the provider has finished credentialing and has been approved. Kirk McGhee responded that is correct. Ellen Williams, GA Society of Oncologists, voiced her association's support of this bill. Senator Shafer asked what is better, to rush credentialing or allow more time to make the switch. Senator Rogers left at 4:30 PM. Ellen Williams said we need to do both. Molly Herrin, American Cancer Society, Margaret Price, PAGE, and Jody Grogan, GAE all spoke of their support of this bill. Senator Rogers left at 4:30 PM. Senator Shafer said he is inclined to vote against this bill. He said he is concerned that it will not remedy the problem and it may discourage competition years from now. Senator Meyer von Bremen said that he met with and accepted input from many different individuals and groups while working on this bill. Senator Hudgens asked if he was comfortable that it will meet any court challenge. Senator Meyer von Bremen said he believed it would. Senator Harp made a motion to **Do Pass By Committee Substitute**, seconded by Senator Chapman. Senators Moody, Brown, Chapman, Golden, Harp and Harbison voted yes with Senators Stephens, Shafer and Balfour voting no. The bill passed 6 to 3.

There being no further business before the committee, the meeting adjourned at 4:40 PM.

/s/ Senator Dan Moody, Secretary

/s/ Leah Tatum-Dick, Recording Secretary

Insurance and Labor Committee

March 7, 2006

Room 450 Capitol

Members present:	Hudgens (47)Chairman	Zamarripa (36)
	Shafer (48)Vice-Chairman	Balfour (9) Ex Officio
	Golden (8)	Harp (29) Ex-Officio
	Rogers (21)	Staton (18) Ex-Officio

Senator Hudgens called the meeting to order at 4:45 PM and welcomed committee members, staff and visitors. He opened the meeting with a prayer. Since there was not a quorum present Senator Hudgens appointed Senator Cecil Staton as an Ex-Officio member to serve at this meeting only per memo from Mr. Bob Ewing, Secretary of the Senate. (Copy of filed memo attached)

SB 649 (Staton 18th) Motorist Coverage; insured in liability policies; uninsured motorist coverage subject to stacking; Senator Staton presented a substitute explaining 95% of all businesses are small and that most new jobs are from small businesses. Senators Golden and Harp arrived at 4:49 PM. Senator Staton pointed out many small business people have a company car for their personal use. He said 7 years ago he experienced a personal situation; he was in a head-on collision and is very blessed to be alive. He believes this bill will help prevent people from being surprised, like he was, about their uninsured motorist coverage. Since his was a company policy, it did not allow for the stacking of benefits as an individual policy would have allowed. This bill will mandate, for the purposes of uninsured coverage, company policies will be treated the same as individual policies. The bill includes a limit of up to 6 vehicles. Senator Hudgens asked what about 4 different contracts; could this not stack? Senator Staton replied not currently if they are company policies. Senator Shafer asked if an individual has 2 cars with \$100,000 of uninsured coverage since they are paying for 2 separate cars can this not be stacked. Senator Staton replied if the policies are individual than yes. Senator Zamarripa asked if insurance companies will have to underwrite differently. Senator Staton said they probably will. Robert Potter, State Farm, spoke against the bill. He said his company covers about 25% of the automobile market. He said uninsured coverage is a complicated area. The purchaser can choose to buy or not. He believes this mandates more coverage and causes more exposure on the part of the Insurance companies. He said he believes this gives the purchaser of a policy less options. He also stated his opinion that this is against the free market principals our country is founded on. Senator Harp asked if this legislation is passed and a business has \$100,000 uninsured motorist coverage per car and has 6 cars bringing that total to \$600,000, can the company not decline to purchase the coverage? Robert Potter replied that one can choose to have either stackable or unstackable in the written policy so you are correct. Senator Harp asked who pays the increased rate. Robert Potter replied the policyholder. Senator Harp asked if the policyholder has the right to opt out if the price of the coverage increases. Robert Potter replied yes. Senator Shafer asked would workers compensation take precedent over

uninsured motorist coverage if the driver was on company business. Robert Potter replied yes. Stacy Freeman, McKenna, Long Aldridge said they have over 1,100 members and they have the same concerns as voiced by Robert Potter. Emily Bagwell, GA Association of Property & Casualty Insurance Compensation express her association's reservations on the bill also. She believed that under the proposed change policy holders would be entitled to collect losses where no premiums had yet been collected. She said this would have an adverse affect on all policyholders. Bill Prather, CNA Insurance Companies, said that regarding company vs. personal policies, the risks increase multifold. His company is not supporting this bill. Senator Staton this bill is aimed at helping small business who are not receiving the benefit of stacking at the present moment. He said he didn't believe the sky will fall if businesses are treated the same as individuals when it comes to uninsured motorists coverage. He says this is not complicated, it will help small businesses. Allen Hayes, Office of the Insurance Commissioner, said the DOI supports this substitute. Senator Hudgens said since we now have a quorum he was rescinding Senator Staton's appointment as an Ex-Officio member. Senator Harp made a motion to **Do Pass By Committee Substitute**, seconded by Senator Rogers. Senators Balfour, Harp, Rogers and Shafer voted yes with Senators Golden and Zamarripa voting no. The bill passed 4 to 2.

Senator Hudgens called upon Senator Steen Miles to discuss [SB 576](#) and [SB 579](#). He explained he wanted to have an open discussion but he was not ready to bring it to the committee for a vote.

[SB 576](#) (Miles 43rd) Community Health Dept; provide submission of data; individual's employer; state funded health care program; Senator Miles explained this bill requires compilation and reporting of figures for the number of people on public health programs of employers with 25 or more employees receiving Medicaid or Peachcare or on public assistance. She said she has talked with the Atlanta Journal Constitution and they say this bill has merit. Senator Hudgens asked if this was not an invasion of privacy since the employer will have to ask their employees those questions. Senator Miles responded this is simply making sure information is given to the general public. She also pointed out employers ask employees if their spouses have their own insurance all the time; is this an invasion of privacy? Senator Rogers asked what percentages of employers in Georgia have 25 or more employees on public assistance. Senator Miles replied 80%. Senator Rogers asked why not do this for all companies instead of just companies with 25 or more employees for a more accurate accounting. Senator Miles replied good question but their concern is large companies who have many employees with children on public assistance.

[SB 579](#) (Miles 43rd) Medical Assistance; employees/health care coverage; require employers to annually report to commissioner of community health; Senator Miles said once we have the information from [SB 576](#) then we will be able to understand who, in the corporate world, is not doing their fair share. She said there are companies with

10,000 or more employees with not even 6% of salaries going towards benefits. She said this can no longer be allowed to go on. She went on to say this bill is not aimed at Wal-Mart specifically but it is aimed at companies who can but will not provide benefits to employees. She said it is unfair that some small businesses provide benefits while some larger companies are getting away with not providing benefits. There is a health care crisis in Georgia. Senator Hudgens commented he had small businesses but never 25 employees but he provided healthcare. He also pointed out some employees choose to be on their spouses' insurance plan rather than their companies'. Does this bill mandate coverage? Senator Miles replied she would like to mandate that large companies act as good employers such as Senator Hudgens. She went on to say that taxpayers should not shoulder the responsibility. Senator Rogers asked for a definition of fair share. Senator Miles said some large companies are not even paying 6% and they ought to pay at least the 6%. She went on to say it is sinful that so many people are without health insurance. Senator Rogers asked about Delta which he pointed out was a large corporation that is not making huge profits right now. Senator Miles replied that the company has 10,000 or more employees and the taxpayers are paying rather than the company. She asked Senator Rogers to define huge profits and said the Devil is in the details. Senator Balfour asked how companies would show the number of employees who chose not to take the insurance offered because they prefer to be covered under their spouse's insurance. Senator Miles said she is concerned with the children on Peachcare and the companies that didn't pay at least 6% of their wages for insurance. Senator Balfour said we didn't want to penalize places such as Eggleston who has physicians with their own coverage and McDonalds who employ a large number of teenagers covered under their parents insurance and many other companies whose employees are part-time. Senator Hudgens asked where public assistance was mentioned in this bill. Senator Miles replied she didn't know the line number.

Senator Balfour asked what if he offers 2 or 3 different plans to employees and they refuse all of them, is that his fault. Senator Miles responded she couldn't say it is his fault and went on to say Senator Balfour was giving wonderful examples not occurring in the real world. Richard Ray, President of GA FLCIO said there are 45 million people in the U.S. who have no healthcare coverage. He said Congress cannot come up with a fix to this major problem and these 2 bills will not fix the entire problem either but people are tired of waiting. He went on to say many companies have healthcare coverage but he is representing the labor union and speaking about the men, women and children without coverage. He said thank God this state has public assistance. He pointed out Wal-Mart has the largest number of employees with children on Peachcare and asked why the biggest employer in Georgia cannot afford to pay for healthcare. He said this should anger everyone. He ended by pointing out the General Assembly tells businesses what to do every day. Senator Rogers said if Delta is paying only 3% and is forced to pay 6% than all the children of Delta's employees will be on government subsidies since their parents won't have jobs. Richard Ray replied the Legislature could give a sales tax break on fluids to compensate. Senator Rogers asked if he is saying the General Assembly should wave the requirements for an unprofitable business. Richard Ray responded

Senator Rogers is saying the threshold is not employees but profits. Senator Zamarripa said he did not see an answer to this issue but it is a valid social debate, one that is hard to resolve. Marylou Romaine Waymer, United Food and Commercial Workers, said many people have health insurance but her association is speaking out for the large number of people who are uninsured and for their children. They fully support both [SB 576](#) and [SB 579](#). She went on to say it is time to protect Peachcare, children and taxpayers. She pointed out the Department of Community Health already receives these figures from the Department of Public Health but the figures are not released to the public. She said the last updated figures were from 2002 and show taxpayers paid out \$12 million dollars with an estimate of \$27 million dollars paid now based on estimated growth. She said people are terrified about losing their healthcare. Senator Miles closed saying \$13 million dollars was spent last year for children; companies can afford insurance for their employees and there was an \$80 million dollar deficit last year and taxpayers want relief. Senator Hudgens thanked her for speaking to the committee.

There being no further business before the committee, the meeting adjourned at 6:05 PM.

/s/ Senator Ralph Hudgens, Chairman

/s/ Leah Tatum-Dick, Recording Secretary

Insurance and Labor Committee

March 14, 2006

Mezzanine

Members present: Hudgens (47) Chairman Rogers (21)
 Shafer (48) Vice Chairman Stephens (27)
 Brown (26) Zamarripa (36)
 Golden (8) Balfour (9) Ex-Officio
 Harbison (15)

Senator Hudgens called the meeting to order at 2:36 PM and welcomed committee members, staff and visitors. He called upon Senator Zamarripa to open the meeting with a prayer.

HB 1291 (Smith 131st) Automobile Clubs; regulate: Representative Smith introduced the bill explaining it is the result of a Georgia Supreme Court Case which said automobile club services are in fact insurance. This bill defines automobile club services and exempts them from state insurance regulations. He said the Commissioner of Insurance, John Oxendine supports this change. Senator Shafer arrived at 2:46 PM. Senator Balfour asked what was the vote in the House. Representative Smith replied it was unanimous. Allan Hayes, GA Department of Insurance, said this bill returns these services back to their original status and is fully supported by the DOI. Senators Brown and Golden arrived at 2:50 PM. Senator Zamarripa asked if this is not insurance, what is it. Allan Hayes replied these services should be considered the same as home security. They are warranty products and fees for service. Senator Harbison made a motion to **Do Pass**, seconded by Senator Stephens. The bill passed unanimously.

HB 1257 (Knox 24th) Insurance; certain change of address filings; exempt from fee; Representative Knox introduced a substitute. Senator Hudgens said he had a problem with this as he normally requires any amendment or substitute be received by him 24 hours before the scheduled meeting. He asked the committee members if they had any problem with proceeding with the substitute. No member objected. Senator Hudgens said he was reserving the right to hold action on the bill. Representative Knox agreed and continued with his explanation of the bill saying it provides a protocol to the providers as to what medical insurance pays. It requires ambulatory services to be compensated by insurers on the same basis as hospital emergency facilities. It requires health benefit plans that provide incentives for people to use certain providers to include a provision acknowledging this may not be possible if the request for emergency care is made through the 911 system. Senator Balfour said **SB 330** that went through the Senate Health and Human Services Committee addressed this very subject although it was never voted on in the Senate. He presented a committee substitute saying it takes care of Representative Knox's concerns and includes the balance of the issues addressed in his bill. He went on to say this substitute expands the definition of emergency medical provider to include any provider of emergency medical transportation or hospital licensed

or permitted by the GA Department of Human Resources, any hospital based service or any physician licensed by the Composite State Board of Medical Examiners who provide emergency services. It allows for the emergency stabilization of the patient without seeking authorization by any managed care plan and requires payment of these necessary services which include evaluation, diagnostic testing and or treatment. This bill also requires payment of benefits directly to the provider of services with a completed assignment of benefits including nonparticipating or nonpreferred providers and ambulances or other emergency medical transportation. Senator Balfour remarked that ambulance providers and the insurance industry got together and worked this compromise out. Senator Hudgens commented this substitute was properly received by the committee and went on to remark he didn't like to be blindsided. Senator Hudgens asked Senator Balfour if he was concerned with the germaneness of Section 1-4, code section 31. Senator Balfour asked Jeff Lanier of Legislative Council to address that issue since he wrote the substitute. Jeff Lanier responded, based on his information, it is germane. Senator Balfour pointed out the balance of the bill reverted back to Representative Knox's issues; it eliminates the \$25.00 fee for insurers filing a change of address if done online, and allows the Commissioner to waive the fee if done by mail. It defines the qualifications of insurance counselors and allows the Commissioner of Insurance to waive the 5 year experience requirement if it is determined the applicant is qualified to act as a counselor based on that person's education and experience. The bill repeals the code section requiring business addresses of every licensed agent, subagent, counselor and adjustor to appear on the business license and requires this information to be maintained by the Commissioner of Insurance. Senator Hudgens went over the various points of the bill with Jeff Lanier and Leah Tatum-Dick, Committee Recording Secretary to verify all changes to the bill. Senator Balfour made a motion to **Do Pass By Committee Substitute**, seconded by Senator Rogers. The bill passed unanimously.

There being no further business before the committee, the meeting adjourned at 2:57 PM.

/s/ Senator Ralph Hudgens, Chairman

/s/ Leah Tatum-Dick, Recording Secretary

Insurance and Labor Committee

March 21, 2006

Room 450 Capitol

Members present:	Hudgens (47) Chairman	Golden (8)
	Moody (56) Secretary	Stephens (27)
	Brown (26)	Zamarripa (36)
	Chapman (3)	Harp (29) Ex-Officio

Senator Hudgens called the meeting to order at 11:40 AM and welcomed committee members, staff and visitors. He opened the meeting with a prayer.

HB 1364 (Sheldon 105th); Handicapped persons; Medicare prescription drug insurance plan; provisions. Representative Sheldon explained this bill allows Georgia Cares and other qualified providers to assist disabled adults and senior citizens who have no authorized representative to make decisions regarding Medicare B. Senator Stephens made a motion to **Do Pass**, seconded by Senator Brown. The bill passed unanimously.

HB 1371 (Graves 137th) The Pharmacy Audit Bill of Rights; enact; Representative Graves presented a substitute explaining this bill establishes specific criteria for auditing pharmacy records. He went through each section line by line. He explained desk audits still occur but there are problems when people come in and ask for data collection. He feels Pharmacists should be involved in the audits. He pointed out if the paper prescription is missing but a computer documents exists it is still charged as a violation. He stated money is taken as overpayments based on estimates of errors because it is impossible to audit the hundreds of prescriptions handled by pharmacies. He believes is something was caught but has now been corrected do not take the money as it is not an overpayment. He pointed out changes in time frames to allow data to be sent, received and responded to. Also, additional time was allowed for busy times of the year. He said overpayments must be proven not estimated. He also pointed out corrections to the appeals process and the fact no requirement existed requiring overpayments to be returned to the plan sponsor. This is corrected in the bill. Senator Balfour arrived at 12:36 Senator Brown asked if Representative Graves had a position on the amendments. Senator Hudgens said that would be discussed when they are take up. Senator Graves said he approved of some but not others. Senator Moody asked if on Page 2 number 4 did they get documentation. Representative Graves answered some companies do and some do not. There is a need to standardize. Representative Graves presented Amendments 330454 which deals with paragraph 5 on page 2 and 330456 which deals with paragraph 12 on page 2. He said he presented both of them because if 1 amendment passed the other should as well. He explained that these amendments would continue to give auditors the right to extrapolate data. Robert Highsmith, Holland and Knight, said he represents United, First Health Etna, Cigna, Blue Cross Blue Shield among others. They also represent Pharmacy Benefit Management (PBM) for the state. He said he worked with GPHA on some of the provisions of the bill He pointed out a claim could consist of tens

of millions of pharmacies. They look at extrapolation as a pharmacy auditing tool. It is an accepted scientifically valid tool and as such is an industry benchmark to avoid dispensing inaccurate information. He said the amendments allow for the continuation of extrapolation. Senator Harp said the IRS does not use extrapolation for fraud or to determine tax payments correct? Robert Highsmith replied that one cannot compare a pharmacy with the IRS because of two different things. Issues with pharmacy audits are much more straightforward. Extrapolation allows determination to a degree of confidence and, while it is an infrequently used tool it is not something they want to take out of the tool box. Senator Moody asked how is the process used in sales tax audits for businesses different from the process used for the IRS. Robert Highsmith replied he was not sure. Senator Moody said he had one done for business and believes extrapolation was used. Senator Chapman asked if express scripts are used. Robert Highsmith replied only when pharmacies ask us to use them. Senator Chapman asked what if the bill was amended to say 'when the pharmacy agrees.' Robert Highsmith replied situations would arise where extrapolation is valid to use yet pharmacies may not agree to its use. He said extrapolation is a mathematically sound process that is scientific and sophisticated. Senator Zamarripa asked what other tool could be used instead of extrapolation. Robert Highsmith replied claim by claim counting. Senator Zamarripa asked if there was any discussion about increasing the threshold to call for an audit. Robert Highsmith replied yes. Wayne Alden, GA Pharmacy Association said his association is against the amendments. He said that extrapolation is not eliminated. What is eliminated in the bill are calculations. When a pharmacy is audited and problems he wants them to recoup rather than extrapolate. He would rather use the procedures the IRS uses. He went on to say pharmacy audits are straightforward but it cannot be said that all drugs that are dispensed in a specific pharmacy are incorrect for a specific drug. The only thing that is prevented in the bill is extrapolating for the purpose of collecting money, not for determining errors. Senator Stephens asked what other states prevent extrapolation. Wayne Alden replied California, Florida and Indiana have similar language which prevents extrapolation. Senator Hudgens said assume the pharmacy paid for medicine received and was not paid based upon an audit. There is no mechanism to go back to the individual and say the insurance plan did not reimburse so the drugs are given for free. Robert Highsmith said this holds down pharmacy benefit costs because of effective audits. Wayne Alden said Audits will continue. All this bill does is to establish appropriate parameters. Senator Zamarripa asked if they will have to check through millions of cases without the use of extrapolation. Wayne Alden replied yes and the correct exact amount of overpayment will be recouped. He said he felt strongly that the process of extrapolation to recoup money is inappropriate. Senator Hudgens asked what is an outlier. Wayne Alden replied it is a pharmacy with over a 6 to 7 percent error rate. It indicates there is something wrong with this pharmacy. He said we can identify the pharmacy due to extrapolation. He just doesn't believe it should be used to recouping money. Senator Hudgens said if we adopt the two Amendments, 330454 and 330456 we will allow extrapolation to continue; if we do not adopt the two Amendments than the substitute will remain as written. Senator Moody made a motion to **Do Pass** the Amendments. There was no second. The motion died due to the lack of a second. Senator

Brown left at 12:32 PM. Representative Graves presented Amendment 330455 which strikes paragraph 10. Robert Highsmith explained that incentive based compensation for auditors is wide-spread throughout the audit industry. He feels the present system provides all of the proper incentives. He is against paragraph 10 as he feel is provides the wrong incentives. He said pharmacists have nothing to gain based on how auditors are paid. Wayne Alden said incentives provide perverse motivation. He believes it is inappropriate to provide an incentive to auditors to do their job. Senator Hudgens said the entity conducting the audit is not enumerated based upon services. Jerry Duberly, Department of Community Health, said the DCH supports Amendment 330455. Wayne Alden said there is nothing to stop on-site audits. Robert Highsmith said the provision relating to onsite audits is no restricted to only onsite audits. Senator Chapman asked for examples. Wayne Alden said that DEA numbers are used for validating and prescribing controlled substances. To check on all prescriptions would be inappropriate. There is no reason why we need to 'throw' physicians DEA numbers when the only reason a pharmacy is being audited is to recoup money. Senator Chapman responded you cannot pick and choose what to put on the bottle. Wayne Alden said audits are performed just to inflate numbers. Senator Hudgens said that Amendment 330455 strikes 21 and 22 out of the substitute. Senator Moody made a motion to **Do Pass** the Amendment, seconded by Senator Zamarripa. Senators Moody, Stephens Zamarripa, Balfour and Chapman voted yes with Senator Golden and Harp voting no. The Amendment passes 5 to 2. Senators Moody and Harp left at 12:55 PM. Senator Balfour presented Amendment 350035 explaining it provides for a meaningful right of appeal. He said in a situation where a person comes in and the pharmacist does not have a physician's number, a dummy number is often put in place. The pharmacies are not being allowed to verify and provide the correct physician's number and are being fined and money recouped. This will give pharmacists the right to rectify this problem. Kathy Kuzava, GA Food Industry, said pharmacies have gotten sloppy using dummy numbers. A legitimate doctor with a legitimate claim comes into a pharmacy and a dummy number is used. A customer comes back a year later, after the physician has a correct number, but the correct number is not put into the system. The store takes these files and copies them to new stores and the dummy number stays in the system. She does not believe this is fraud or abuse. She said the GA Food Industry supports Senator Balfour's amendment and believes it just says 'let us show you.' Representative Graves said, while this is not part of his bill, he feels the amendment is fine. The audit procedure should allow for due process. It is an issue of fairness; pharmacies should be allowed to present information. Doug Colburn, Inspector General for Medicaid in Georgia, said the amendment is aimed at a specific audit involving the overuse of the dummy physician number. A physician cannot be identified without the proper ID. He said the average use of a dummy number is 20%. Anything over that is abuse. He said he does not support this amendment. Senator Balfour made a motion to **Do Pass** Amendment 350035, seconded by Senator Golden. The Amendment passed unanimously. Senator Balfour made a motion to **Do Pass by Committee Substitute**, seconded by Senator Zamarripa. The bill passed unanimously.

There being no further business before the committee, the meeting adjourned at 1: 39 P.M.

/s/ Senator Dan Moody, Secretary

/s/ Leah Tatum-Dick, Recording Secretary

Insurance and Labor Committee

March 23, 2006

Room 450 Capitol

Members present:	Hudgens (47) Chairman	Harbison (15)
	Moody (56) Secretary	Stephens (27)
	Brown (26)	Zamarripa (36)
	Golden (8)	

Senator Hudgens called the meeting to order at 5:47 PM and welcomed committee members, staff and visitors. He opened the meeting with a prayer.

HB 1359 (Forster 3rd) Georgia Assignment Pool Underwriting Authority; create; Senator Hudgens presented a substitute bill but indicated it still needed some changes. He instructed the committee members to strikeout section 1 completely, renumber section 2 as section 1 and renumber the rest of the sections accordingly. He explained the substitute now removes all language regarding any type of funding mechanism. He said this bill allows for the creation of a High Risk Pool in the State of Georgia. The Georgia Assignment Pool is the underwriting authority. He said he believes, predicated on doing an in-depth and accurate actuary study, we will know what the High Risk Pool will cost. He said everyone agrees that the assignment pool is a good idea but he believes this bill would have been defeated had it been presented in its previous form. Senator Hudgens asked if anyone wanted to speak against the bill. No one responded. Senator Stephens made a motion to **Do Pass By Committee Substitute**, seconded by Senator Moody. The bill passed unanimously.

There being no further business before the committee, the meeting adjourned at 5:55 PM.

/s/ Senator Dan Moody, Secretary

/s/ Leah Tatum-Dick, Recording Secretary

January 20, 2006

Honorable Bob Ewing
Secretary of State Senate
353 State Capitol
Atlanta, Georgia 30334

Dear Mr. Ewing:

Enclosed is the Minutes Book for the Senate Insurance and Labor Committee for the 2006 Session.

Also, enclosed are the following bills upon which no action was taken during the 2006 Session of the General Assembly:

SB 11	SB 410	SR 120
SB 18	SB 411	SR 205
SB 22	SB 439	SR 301
SB 47	SB 444	SR 786
SB 76	SB 475	HB 920
SB 102	SB 476	HB 1279
SB 176	SB 482	
SB 200	SB 498	
SB 218	SB 509	
SB 298	SB 536	
SB 310	SB 576	
SB 326	SB 579	
SB 331	SB 621	
SB 336	SB 653	
SB 365		

Sincerely,

Leah Tatum-Dick
Recording Secretary
Insurance and Labor Committee